

### **REMARKS**

Claims 1-24 are all the claims presently pending in the application, of which claims 1, 21, 22, 23 and 24 are independent. Claims 1-24 are rejected, of which claims 1, 21, 22, 23 and 24 have been amended.

Applicant expresses appreciation to the Examiner for the consideration of the subject patent application.

#### **Rejection under 35 U.S.C. 112, second paragraph**

The Examiner rejected claim 23 under 35 U.S.C. 112, second paragraph, as being indefinite. In response, Applicant has amended claim 23 to provide proper antecedent basis. Such Amendment is not intended to be a narrowing limitation to the claims. Applicant therefore respectfully requests the Examiner withdraw this rejection.

#### **Rejection under 35 U.S.C. 102(b)**

The Examiner rejected claims 1-19 and 21- 22 as being anticipated by Steger (U.S. Patent No. 949,453).

In the Steger reference, there is disclosed a wire mesh vessel, such as a strainer or colander. However, the Steger reference specifically discloses that the wire mesh vessel is a reticulated material made for draining water from vegetables or other food contained therein. *See Steger*, lines 8-13, 35-36.

In contrast, independent claim 1 has been amended to recite a liner having a liquid-retaining surface extending from said bottom wall to at least the upper portion of the upstanding side wall. Specifically, claim 1 has been amended to recite as follows:

1. A disposable liner for a dutch oven comprising:  
a liner having a bottom wall and an upstanding side wall with an upper portion, said liner having a liquid-retaining surface extending along said bottom wall to at least said upper portion of said upstanding side wall, said liner configured to fit in the dutch oven; and

at least one handle extendable from said upper portion of said liner and configured to be moveable with respect to said upper portion for completely enclosing in the dutch oven.

As noted by the Court of Appeals for the Federal Circuit in *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (1987), "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Applicant respectfully submits that claim 1 requires the presence of a liner having a liquid-retaining surface extending from said bottom wall to at least said upper portion of the upstanding side wall. Since the Steger reference does not teach or disclose such a limitation, the rejection of amended claim 1 under 35 U.S.C. 102 over the Steger reference should be withdrawn.

With respect to independent claim 21, it has been amended to recite similar claim limitations as that amended in claim 1. Therefore, Applicant respectfully submits that independent claim 21 should be allowable for at least the same reasons as independent claim 1. With respect to dependent claims 1-19 and 22, they should each be patentable over the Steger reference based on at least their dependency from claims 1 and 21, respectively.

### **Rejections under 35 U.S.C. 103**

The Examiner rejected claim 20 under 35 U.S.C. 103 based on the Steger reference in view of the Racz reference (U.S. Pat. No. 3,934,748). However, as indicated with respect to amended independent claims 1 and 21, the Steger reference does not teach or suggest a liner having a liquid-retaining surface extending from the bottom wall to at least an upper portion of the upstanding side wall. The Racz reference does not make up for such deficiency. Rather, the Racz reference is only relied upon for teaching "a pot with an aluminum insert (column 7, line 35). See Office Action, page 3, paragraph 3. Therefore, since neither the Steger reference nor the Racz reference, alone or in combination, teach or suggest "a liner having a liquid-retaining surface," as recited in claim 1, then claim 20 should be patentable based on at least its dependency from independent claim 1.

Applicants therefore respectfully request that the rejection of claim 20 under 35 U.S.C. 103 based on the Steger reference in view of the Racz reference be withdrawn.

The Examiner rejected claims 23-24 under 35 U.S.C. 103 based on the Steger reference in view of the Clement reference (U.S. Pat. No. 5,314,220). As previously set forth, the Steger reference does not teach or suggest a liner having a liquid-retaining surface extending from the bottom wall to at least an upper portion of the upstanding side wall, as recited in amended independent claims 1 and 21. Independent claims 23 and 24 have also been amended with similar patentable limitations as included in claims 1 and 21. Therefore, the Steger reference does not teach or suggest each and every claim limitation as set forth in amended claims 23 and 24. Furthermore, the Steger reference expressly teaches away from “a liner having a liquid retaining surface” as recited in claim 23 and 24, since the Steger reference teaches a wire mesh, reticulated strainer or colander. Thus, a person of ordinary skill in the art would not have been motivated to modify the teachings in the Steger reference based on the objective teachings therein.

In addition, the Clement reference does not overcome the deficiencies of the Steger reference of “a liner having a liquid-retaining surface.” Rather, the Clement reference is relied upon for teaching a dutch oven being used to cook over hot coals. Thus, neither the Steger reference nor the Clement reference, alone or in combination, teach or suggest each and every limitation recited in independent claims 23 and 24. Therefore, Applicant respectfully requests the rejection of claims 23 and 24 under 35 U.S.C. 103 based on the Steger reference in view of the Clement reference be withdrawn.

### **CONCLUSION**

For the foregoing reasons, Applicants respectfully request the Examiner to withdraw all rejections, and to find the application now to be in condition for allowance with claims 1-24. However, if the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to call the undersigned to discuss any unresolved issues and to expedite the disposition of the application.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 22 day of July, 2002.

Respectfully submitted,



David L. Stott  
Attorney for Applicant  
Registration No. 43,937

THORPE, NORTH & WESTERN, L.L.P.  
P.O. Box 1219  
Sandy, Utah 84091-1219  
Telephone (801) 566-6633

H:\FILES\20000\20928\Amendment.doc